

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

CHRISTOPHER JAMES POOLE,

Plaintiff,

v.

**O.D.O.C., MOHAMED KABLI, NURSE
PAUL, and C/O BYERLY,**

Defendants.

Case No. 3:14-cv-00793-PK

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Paul Papak issued Findings and Recommendation in this case on March 17, 2015. Dkt. 32. Judge Papak recommended that Defendants' Motion to Dismiss (Dkt. 23) be granted and Plaintiff's Second Amended Complaint (Dkt. 14) be dismissed with leave to file a Third Amended Complaint within 90 days of the final disposition of the Findings and Recommendation. Judge Papak further recommended that Plaintiff's motions for appointment of counsel (Dkts. 24, 29, 30) be denied and that Plaintiff's motions for leave to file an amended complaint and motions for extension of time (Dkts. 26, 29, 30) be denied as moot. No party has filed objections.

Under the Federal Magistrates Act (“Act”), the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C.

§ 636(b)(1)(C). If a party files objections to a magistrate’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, however, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”). Nor does the Act “preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. And the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.” As no party has made objections, the Court follows the recommendation of the Advisory Committee and reviews Judge Papak’s Findings and Recommendation for clear error on the face of the record. No such error is apparent.

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The Court ADOPTS Judge Papak's Findings and Recommendation. Dkt. 32. Defendants' Motion to Dismiss (Dkt. 23) is GRANTED and Plaintiff's Second Amended Complaint (Dkt. 14) is DISMISSED with leave to file a Third Amended Complaint within 90 days of the date of this Order. Plaintiff's motions for appointment of counsel (Dkts. 24, 29, 30), motions for leave to file an amended complaint and motions for extension of time (Dkts. 26, 29, 30) are DENIED.

IT IS SO ORDERED.

DATED this 3rd day of April, 2015.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge